

EXHIBIT “A”

CAUSE NO. 17-12-35080-MCV

MARIA RAMIREZ AND § IN THE DISTRICT COURT
FRANCISCA GONZALEZ §
VS. § 293RD JUDICIAL DISTRICT
TRANSCARGA Y GANADO §
MORENO, SA DE CV, §
TGM LOGISTICS, INC. §
AND MARCO ANTONIO MARTINEZ §
MORENO § MAVERICK COUNTY, TEXAS

PLAINTIFFS" ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, **MARIA RAMIREZ AND FRANCISCA GONZALEZ**, hereinafter sometimes referred to as "Plaintiffs", complaining of **TRANSCARGA Y GANADO MORENO, SA DE CV, TGM LOGISTICS, INC. AND MARCO ANTONIO MARTINEZ MORENO**, herein after sometimes referred to as "Defendants", and for cause of action Plaintiff would allege and show to the Court as follows:

I.
PARTIES AND DISCOVERY CONTROL PLAN

- 1.1 Plaintiffs are residents of Maverick County, Texas.
- 1.2 Defendant, **TRANSCARGA Y GANADO MORENO, SA DE CV** is a Mexican entity conducting and engaging in business in Texas. Service of process can be effectuated by serving the designated agent for service Maria Elena Garcia, at 3495 Cory Circle, Eagle Pass, Texas 78852.
- 1.3 Defendant, **TGM LOGISTICS, INC.** is a Texas Corporation doing business in Texas. Service of process can be effectuated by serving the designated agent for service Maria Elena Garcia, at 3495 Cory Circle, Eagle Pass, Texas 78852.

1.4 Defendant, MARCO ANTONIO MARTINEZ MORENO, is a natural person and resident of Piedras Negras, Mexico. Service of process can be effectuated by serving the Chairman of the Texas Transportation Commission pursuant to Tex Civ. Prac. & Rem. Code §17.062(a) at 125 E. 11th Street in Austin, Texas 78701. The Defendant's address is 420 Mota Cortada, Piedras Negras, Coahuila, Mexico 26000.

1.5 Plaintiff intends to conduct discovery under Level 2 of Texas Rule of Civil Procedure 190.3.

II.
VENUE and JURISDICTION

2.1 Venue is proper in Maverick County, Texas under the general rule, Civil Practice & Remedies Code Section 15.002(a)(1), since all or a substantial part of the events or omissions giving rise to the claim occurred in Maverick County, Texas.

2.2 Jurisdiction is proper in this Court because the amount in controversy exceeds the minimum jurisdictional limits of this Court.

2.3 Further, the Court has specific and general personal jurisdiction over all Defendants because they purposely availed themselves of the privilege of conducting activities within Texas; they have substantial and continuous contacts with the State of Texas, generally and with respect to this action, to satisfy both general and specific minimum contacts; and exercising jurisdiction over them does not offend traditional notions of fair play and substantial justice.

III.
NATURE OF CAUSE

3.1 Plaintiffs bring this cause of action to recover damages for personal injuries and economic damages sustained by them, arising out of a vehicular collision which occurred on or

about **December 16, 2016**, in Eagle Pass, Maverick County, when a tractor truck and trailer driven by Defendant, **MARCO ANTONIO MARTINEZ MORENO**, in the course and scope of his employment with **TRANSCARGA Y GANADO MORENO, SA DE CV AND/OR TGM LOGISTICS, INC.**, struck Plaintiffs' vehicle.

IV.
FACTS

4.1 At the time and on the occasion in question, **MARIA RAMIREZ** was operating a 2004 Chevrolet Cavalier in a lawful and prudent manner while travelling Eastbound on the outside lane of the 2900 block of North Veterans Boulevard d in Eagle Pass, Texas. **FRANCISCA GONZALEZ** was a passenger in the vehicle driven by **MARIA RAMIREZ**. Defendant, **MARCO ANTONIO MARTINEZ MORENO**, who was operating a 1999 Freightliner and who was traveling Eastbound on the inside lane of the 2900 block of North Veterans Boulevard attempted to change lanes from the inside lane to the outside lane and in the process suddenly and forcefully struck Plaintiffs' vehicle. **MARCO ANTONIO MARTINEZ MORENO** failed to be attentive, changed lanes when unsafe, failed to stay within his lane of travel, and suddenly, unexpectedly and without warning struck Plaintiffs' vehicle which resulted in injuries and damages to Plaintiffs.

V.
RESPONDEAT SUPERIOR/STATUTORY EMPLOYEE

5.1 At the time of the collision **MARCO ANTONIO MARTINEZ MORENO** was the agent, servant, employee and/or statutory employee of Defendants, **TRANSCARGA Y GANADO MORENO, SA DE CV AND/OR TGM LOGISTICS, INC.** and was acting within the course and scope of his employment as agent, servant, employee, and/or statutory employee of **TRANSCARGA Y GANADO MORENO, SA DE CV AND/OR TGM LOGISTICS, INC.**

5.2 **MARCO ANTONIO MARTINEZ MORENO** was operating the 1999 tractor truck and trailer with the knowledge, consent and actual permission and/or implied permission of **TRANSCARGA Y GANADO MORENO, SA DE CV AND/OR TGM LOGISTICS, INC..**

5.3 **TRANSCARGA Y GANADO MORENO, SA DE CV AND/OR TGM LOGISTICS, INC.** are liable for damages suffered by Plaintiffs under the doctrine of Respondent Superior and/or as statutory employee since the negligence of **TRANSCARGA Y GANADO MORENO, SA DE CV AND/OR TGM LOGISTICS, INC.**'s employees, agents or representatives was a proximate cause of the collision and resulting damages as described herein.

VI.
AGENT

6.1 Additionally, at the time of the collision **MARCO ANTONIO MARTINEZ MORENO** was the agent of the principal **TRANSCARGA Y GANADO MORENO, SA DE CV AND/OR TGM LOGISTICS, INC.** and was acting within the course and scope of his implied and or express authority as such agent.

6.2 Therefore, **MARCO ANTONIO MARTINEZ MORENO** and **TRANSCARGA Y GANADO MORENO, SA DE CV AND/OR TGM LOGISTICS, INC.** are joint and severally liable for the damages to the Plaintiffs under the law of agency.

VII.
NEGLIGENCE OF MARCO ANTONIO MARTINEZ MORENO

7.1 The occurrence made the basis of this suit and Plaintiffs' resulting injuries and damages were proximately caused by the negligent conduct of Defendant, **MARCO ANTONIO MARTINEZ MORENO**, in one or more of the following respects:

- a. In failing to keep a proper lookout as a reasonable and prudent person would have done under the same or similar circumstances;

- b. In failing to timely apply the brakes to Defendant's vehicle in order to avoid the collision in question;
- c. In failing to take evasive action in order to avoid the collision;
- d. In failing to drive as nearly as practical entirely within his lane of travel;
- e. In moving from one lane of travel to another when it was unsafe to do so;
- f. In failing to maintain proper control of his vehicle;
- g. In failing to control the speed of his vehicle;
- h. In failing to swerve to the right thus avoiding a collision between Defendant's vehicle and Plaintiffs' vehicle; and,
- i. In driving the vehicle in willful and wanton disregard for the safety of persons or property in violation of Section 545.401, Transportation Code, V.T.C.A.

7.2 Plaintiffs would show that each of the foregoing acts and/or omissions was a separate and distinct act of negligence and each was a direct and proximate cause of the injuries and damages suffered by Plaintiffs as described herein and below.

7.3 The damages described herein were proximately caused by the negligence of the Defendant and accordingly, Defendants are joint and severally liable.

7.4 In addition, each of the above acts and omissions of negligence are imputed to **TRANSCARGA Y GANADO MORENO, SA DE CV AND/OR TGM LOGISTICS, INC.** by virtue of the doctrine of Respondent Superior.

VIII.
NEGLIGENCE PER SE

8.1 Plaintiffs would further show that **MARCO ANTONIO MARTINEZ MORENO** was Negligent Per Se, as a matter of law in driving **TRANSCARGA Y GANADO MORENO, SA DE CV AND/OR TGM LOGISTICS, INC.**'s vehicle upon a public roadway, in the State of Texas in a reckless manner where no exception applied, to-wit:

a. V.T.C.A., Transportation Code, Section 545.401 states in relevant part that: "A person commits an offense if the person drives a vehicle in willful or wanton disregard for the safety of persons or property."

b. V.T.C.A., Transportation Code, Section 545.060(a) states in relevant part that: "An operator on a roadway divided into two or more clearly marked lanes for traffic; (1) shall drive as nearly as practical entirely within a single lane; and (2) may not move from the lane unless that movement can be made safely."

8.2 The purpose of V.T.C.A., Transportation Code, Sections 545.401 and 545.060(a) is to regulate the smooth and orderly flow of traffic on streets and public highways and these provisions were intended to, interalia, protect persons from collisions.

8.3 Plaintiffs were among those persons intended to be protected by V.T.C.A., Transportation Code, Sections 545.401 and 545.060(a). Accordingly, **MARCO ANTONIO MARTINEZ MORENO'S** failure to comply with these provisions of said statutes constitutes, and **TRANSCARGA Y GANADO MORENO, SA DE CV AND/OR TGM LOGISTICS, INC.** is accordingly guilty of, Negligence Per Se as a matter of law

IX.

NEGLIGENCE OF TRANSCARGA Y GANADO MORENO, SA DE CV AND/OR TGM LOGISTICS, INC.

9.1 In allowing **MARCO ANTONIO MARTINEZ MORENO** to operate the 1999 tractor truck and trailer, **TRANSCARGA Y GANADO MORENO, SA DE CV AND/OR TGM LOGISTICS, INC.** committed negligence in the following respects:

- a. Failing to properly train **MARCO ANTONIO MARTINEZ MORENO** in the safe operation of said vehicle;
- b. Knowingly entrusting said vehicle to an incompetent and/or reckless driver;
- c. Knowingly entrusting said vehicle to a person they knew or should have known was an incompetent and/or reckless driver; and,
- d. Failing to exercise due care to determine that **MARCO ANTONIO MARTINEZ MORENO** driving abilities were deficient.

9.2 Each of these acts and omissions, singularly or in combination with such other acts and omissions constituted negligence which proximately caused the accident made the basis of this lawsuit, and the damages and injuries suffered by Plaintiffs.

X.
NEGLIGENT ENTRUSTMENT

10.1 At the time of the collision **TRANSCARGA Y GANADO MORENO, SA DE CV AND/OR TGM LOGISTICS, INC.** owned and/or leased the 1999 tractor truck and/or trailer being driven by **MARCO ANTONIO MARTINEZ MORENO** and involved in the above described collision.

10.2 **TRANSCARGA Y GANADO MORENO, SA DE CV AND/OR TGM LOGISTICS, INC.** was negligent in entrusting said vehicle to **MARCO ANTONIO MARTINEZ MORENO** in that he was an unskilled, incompetent, and a reckless driver. **TRANSCARGA Y GANADO MORENO, SA DE CV AND/OR TGM LOGISTICS, INC.** entrusted the vehicle with conscious indifference to the rights and safety of others. That entrustment was a direct and proximate cause of the damages suffered by the Plaintiffs for which they hereby sue the Defendants in an amount within the jurisdictional limits of the Court.

XI.
NEGLIGENT HIRING

11.1 Prior to December 16, 2016, **TRANSCARGA Y GANADO MORENO, SA DE CV AND/OR TGM LOGISTICS, INC.** was negligent in hiring **MARCO ANTONIO MARTINEZ MORENO** and in providing the 1999 tractor truck and trailer to **MARCO ANTONIO MARTINEZ MORENO** for the purpose of operating the vehicle on the public streets and highways of Texas in furtherance of **TRANSCARGA Y GANADO MORENO, SA DE CV AND/OR TGM LOGISTICS, INC.**'s business.

11.2 **MARCO ANTONIO MARTINEZ MORENO** operated the vehicle in combination with full knowledge, consent, and permission of **TRANSCARGA Y GANADO MORENO, SA DE CV AND/OR TGM LOGISTICS, INC.** **MARCO ANTONIO MARTINEZ MORENO** was incompetent and unfit to safely operate a motor vehicle on the public streets and highways in that he was a reckless, incompetent, and unfit driver. Allowing **MARCO ANTONIO MARTINEZ MORENO** to operate the vehicle created an unreasonable risk and danger to persons and property on the public streets and highways of Texas.

11.3 In addition, **TRANSCARGA Y GANADO MORENO, SA DE CV AND/OR TGM LOGISTICS, INC.** was negligent in various acts and omissions, including but not limited to the following, to-wit:

- a. In the hiring of **MARCO ANTONIO MARTINEZ MORENO**;
- b. In failing to properly train **MARCO ANTONIO MARTINEZ MORENO** to drive in a safe and prudent manner;
- c. In failing to give the proper driver-training to **MARCO ANTONIO MARTINEZ MORENO**;
- d. In failing to properly supervise **MARCO ANTONIO MARTINEZ MORENO** to ensure that he would operate **TRANSCARGA Y GANADO MORENO, SA DE CV AND/OR TGM LOGISTICS, INC.**'s vehicle in a safe and prudent manner;
- e. In failing to make a prudent inquiry into the driving ability of **MARCO ANTONIO MARTINEZ MORENO**; and,
- f. In the reckless employment of **MARCO ANTONIO MARTINEZ MORENO**.

XII.
DAMAGES TO PLAINTIFFS

12.1 The evidence will show that as a result of the Defendants' negligent acts, Plaintiffs, **MARIA RAMIREZ AND FRANCISCA GONZALEZ**, sustained serious bodily

injuries. As a result of those injuries, Plaintiffs have incurred damages. These elements to be considered separately and individually are as follows:

- a. The physical pain and suffering that the Plaintiffs felt from the date of the incident in question up to the time of trial;
- b. The physical pain and suffering that the Plaintiffs will feel in the future beyond the time of trial;
- c. The mental anguish that the Plaintiffs suffered from the date of the occurrence in question up to the time of trial;
- d. The mental anguish that the Plaintiffs will suffer in the future beyond the time of trial;
- e. The amount of reasonable medical expenses necessarily incurred in the treatment of Plaintiffs' injuries from the date of the incident in question up to the time of trial;
- f. The reasonable value of medical expenses that will necessarily be incurred in the treatment of Plaintiffs' injuries in the future beyond the time of trial;
- g. The damages resulting from the physical impairment suffered by the Plaintiffs and the resulting inability to do those things that the Plaintiffs ordinarily would have been able to do from the date of the incident up to the time of trial;
- h. The damages resulting from the physical impairment that Plaintiffs will continue to suffer in the future and the resulting inability to do those things that the Plaintiffs would ordinarily have been able to perform in the future beyond the time of trial;
- i. The loss or reduction in Plaintiffs' earning capacity up until the time of trial;
- j. The loss or reduction of Plaintiffs' earning capacity in the future caused by the injuries sustained in the incident in question;
- k. The loss of earnings by Plaintiffs up until the time of trial;
- l. The loss of earnings by Plaintiffs in the future caused by the injuries sustained in the incident in question;
- m. The disfigurement which the Plaintiffs have suffered since the date of the occurrence in question up to the time of trial; and,

n. The disfigurement which Plaintiffs will suffer in the future beyond trial and for the balance of her life.

12.2 Plaintiffs would show that as a proximate cause of the negligence, and negligence per se of the Defendants, they have suffered serious and permanent injuries to their body. In all reasonable probability, the Plaintiffs will suffer long into the future if not for the balance of their natural life. The injuries have had a serious effect on the Plaintiffs' health and well-being. Some of these ill-effects are permanent and will abide with the Plaintiffs long into the future. The ill-effects have in turn caused their physical and emotional condition to deteriorate generally so that the specific injuries and ill-effects alleged have caused and will, in all reasonable probability, cause the Plaintiffs to suffer the consequences and ill effects of such deterioration throughout their body long into the future, if not for the balance of their natural life.

12.3 The Plaintiffs would show that all of the above-described damages were proximately caused by the negligence and negligence per se of the Defendants named herein and said negligence was a producing cause of Plaintiffs' injuries and damages for which Plaintiffs hereby sue in the amount within the jurisdictional limits of the Court.

XIII.
JURY DEMAND

13.1 Plaintiffs respectfully demand a Trial by Jury on the issues of this cause and respectfully requests that this cause be placed on the next available Jury Docket.

XIV.
REQUEST FOR DISCLOSURE

14.1 Pursuant to Rule 194, Defendants are requested to disclose within 50 (fifty) days of service of this Request, the information or material described in Rule 194.2 (a) – (l).

XV.
PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiffs respectfully request that Defendants, **TRANSCARGA Y GANADO MORENO, SA DE CV, TGM LOGISTICS, INC.** **AND MARCO ANTONIO MARTINEZ MORENO** be cited to appear and answer this Petition, and that upon final hearing, that Plaintiffs have a judgment against Defendants for all damages as alleged herein, that Plaintiffs have interest on said judgment at the legal rate, pre-judgment interest as provided by law, post-judgment interest as provided by law from the date of judgment until paid, costs of Court, and that they have such other and further relief, both general and special, at law and equity to which they may show themselves justly entitled.

Respectfully submitted,

MATA-CORTES LAW FIRM, P.C.
626 Madison Street
Eagle Pass, Texas 78852
Telephone: (830) 776-5480
Facsimile: (830) 776-5475

SANDRA CORTES
State Bar No. 24057812
ATTORNEY FOR PLAINTIFFS

(2018-101)

CAUSE NO. 17-12-35080-MCV

MARIA RAMIREZ AND § IN THE DISTRICT COURT
FRANCISCA GONZALEZ §
VS. § 293RD JUDICIAL DISTRICT
TRANSCARGA Y GANADO MORENO, §
SA DE CV, TGM LOGISTICS, INC. §
AND MARCO ANTONIO MARTINEZ §
MORENO § MAVERICK COUNTY, TEXAS

**DEFENDANTS TRANSCARGA Y GANADO MORENO, SA DE CV'S
AND MARCO ANTONIO MARTINEZ MORENO'S ORIGINAL ANSWER**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Defendants, TRANSCARGA Y GANADO MORENO, SA DE CV., and MARCO ANTONIO MARTINEZ MORENO, and hereby makes and files this their Original Answer to Plaintiffs' Original Petition, and in support hereof would show the Court as follows:

I.

GENERAL DENIAL

Defendants deny each and every, all and singular, the allegations in Plaintiffs' Original Petition, and says that they are not true, in whole or in part, and demands strict proof thereof on the trial of this cause.

WHEREFORE, PREMISES CONSIDERED, Defendants TRANSCARGA Y GANADO MORENO, SA DE CV., and MARCO ANTONIO MARTINEZ MORENO, respectfully pray that Plaintiffs take nothing from these Defendants and that the Court enter a judgment dismissing all claims against these Defendants with prejudice and awarding all costs of court and expenses incurred herein, and for such other and further relief, at law and in equity, general or special, to which these

Defendants might show themselves to be justly entitled to receive.

Respectfully submitted,

HODGE & JAMES, L.L.P.
Attorneys at Law
P.O. Box 534329 (78553)
1617 E. Tyler Ave., Suite A
Harlingen, Texas 78550
Telephone: (956) 425-7400
Facsimile: (956) 425-7707

/s/ Anthony B. James

Anthony B. James
State Bar No. 10537300
Email: ajames@hodgejames.com

Attorneys for Defendants, TRANSCARGA Y
GANADO MORENO SA DE CV, AND MARCO
ANTONIO MARTINEZ MORENO

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing, Defendants' Original Answer, has been served on the 7th day of March, 2018 to all attorneys of record via electronic mail as follows:

Email: sandra@matacorteslaw.com
Sandra Cortes
Mata-Cortes Law Firm, P.C.
626 Madison Street
Eagle Pass, Texas 78852
Attorney for Plaintiffs

/s/ Anthony B. James

Anthony B. James